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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/609,194	06/26/2003	Daniel J. Potter	11533US.00	7602
33486	7590	04/06/2006	EXAMINER	
HEIMBECHER & ASSOC., LLC. 6125 SALVIA LANE ARVADA, CO 80403			AHMED, AAMER S	
		ART UNIT	PAPER NUMBER	
		3763		

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/609,194	POTTER, DANIEL J.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Aamer S. Ahmed	3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1-20 is/are pending in the application.
  - 4a) Of the above claim(s) 13-20 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-12 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \*    c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lui et al U.S. Publication Number 2001/0049499 A1 in view of Heck U.S. Patent Number 6,083,207.

Lui et al describes a tearable hemostasis valve comprising a valve body (50), a first grip tab attached to the valve body at a first point, a second grip tab (32) attached to the valve body at a second point, a score line (55) on the valve body between the first and second points, a first membrane (112) disposed within the valve body bonded to and integral to the valve body.

Moreover, Lui et al discloses that the membrane (112) comprises a material of a first durometer (Paragraph 7) with a score (29) and the valve comprises a material of a second durometer (Paragraph 12) and the second durometer is higher than the first. Additionally Lui teaches that

the valve further comprises a second membrane (28) disposed within the valve body, parallel to the first membrane and that two membrane are self-sealing.

Lui et al fails to explicitly disclose a snap and fit arrangement between the valve body and a tubular device.

Heck discloses a similar device which teaches a snap-fit arrangement coupled to a distal end of the valve body (see figures 1 and 2), wherein the snap and fit arrangement is adapted to couple onto a hub of a tubular medical device (202); and wherein the snap-fit arrangement comprises a cavity in the valve and an annular sidewall (114) defining an opening in communication with the cavity wherein a diameter of the opening is less than a diameter of the cavity (see figure 3 and 4) such that the annular sidewall is flexible (col. 5 line 49) and the opening is located below the cavity and is located along one side of the cavity (see figures 3 and 4).

It would have been obvious to one having ordinary skill in the art at the time of invention by applicant to modify the device of Lui et al by incorporating the snap and fit of the type taught by Heck in order to form a secure attachment between the valve and tubular medical device.

#### *Response to Arguments*

Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 5330437	Durman
U.S. Pat. No. 5000745	Guest et al.
U.S. Pat. No. 6083207	Heck
U.S. Pat. No. 6623460	Heck
U.S. Pat. No. 6142981	Heck et al.
U.S. Pat. No. 5312355	Lee
U.S. Pub. No. 20030050604 A1	Lui et al.
U.S. Pat. No. 6712791	Lui et al.
U.S. Pat. No. 5514098	Pfoslgraf et al.
U.S. Pat. No. 5643227	Stevens
U.S. Pat. No. 5755693	Walker et al.
U.S. Pat. No. 5397311	Walker et al.
U.S. Pat. No. 4626245	Weinstein
U.S. Pub. No. 20040162531 A1	Wenchell
U.S. Pat. No. 4743265	Whitehouse et al.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aamer S. Ahmed whose telephone number is 571-272-5965. The examiner can normally be reached on Monday thru Friday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



A. Ahmed



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